



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No.: 230329-0086]

RIN 0648-BL99

Fisheries of the Northeastern United States; Framework Adjustment 36 to the Atlantic Sea Scallop Fishery Management Plan

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NMFS approves and implements the measures included in Framework Adjustment 36 to the Atlantic Sea Scallop Fishery Management Plan as adopted and submitted by the New England Fishery Management Council. Framework 36 establishes scallop specifications and other measures for fishing years 2023 and 2024. Framework 36 implements measures to protect small scallops to support rotational access area trips to the fleet in future years. To promote uniformity in the fishery, this final rule also corrects and clarifies regulatory text that is unnecessary, outdated, or unclear. This action is necessary to prevent overfishing and improve both yield-per-recruit and the overall management of the Atlantic sea scallop resource.

DATES: Effective March 31, 2023.

ADDRESSES: The Council has prepared an Environmental Assessment (EA) for this action that describes the measures contained in Framework Adjustment 36 to the Atlantic Sea Scallop Fishery Management Plan (FMP) and other considered alternatives and analyzes the impacts of these measures and alternatives. The Council submitted Framework 36 to NMFS that includes the EA, a description of the Council's preferred

alternatives, the Council's rationale for selecting each alternative, the Initial Regulatory Flexibility Analysis (IRFA), and a Regulatory Impact Review (RIR). Copies of supporting documents used by the New England Fishery Management Council, including the EA and RIR, are available from: Thomas A. Nies, Executive Director, New England Fishery Management Council, 50 Water Street, Newburyport, MA 01950 and accessible via the internet in documents available at:

<https://www.nefmc.org/library/scallop-framework-36>

In addition to the EA, NMFS has prepared a Categorical Exclusion (CE) for the revision of the bushel definition being implemented under Section 305(d) of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). Copies of the CE are available from: Michael Pentony, Regional Administrator, Greater Atlantic Regional Fisheries Office, 55 Great Republic Drive, Gloucester, MA 01930.

FOR FURTHER INFORMATION CONTACT: Shannah Jaburek, Fishery Policy Analyst, (978) 282-8456.

SUPPLEMENTARY INFORMATION:

Background

The New England Fishery Management Council adopted Framework Adjustment 36 to the Atlantic Sea Scallop FMP on December 7, 2022. The Council submitted Framework 36, including an EA, for NMFS approval on March 9, 2023. NMFS published a proposed rule for Framework 36 on March 3, 2023 (88 FR 13408). To help ensure that the final rule would be implemented before the start of the fishing year on April 1, 2023, the proposed rule included a 15-day public comment period that closed on March 20, 2023.

NMFS has approved all of the measures in Framework 36 recommended by the Council, as described below. This final rule implements Framework 36, which sets scallop specifications and other measures for fishing years 2023 and 2024, including

changes to the catch, effort, and quota allocations and adjustments to the rotational area management program for fishing year 2023, and default specifications for fishing year 2024. The Magnuson-Stevens Fishery Conservation and Management Act allows NMFS to approve, partially approve, or disapprove measures proposed by the Council based on whether the measures are consistent with the FMP, the Magnuson-Stevens Act and its National Standards, and other applicable law. NMFS generally defers to the Council's policy choices unless there is a clear inconsistency with the law or the FMP. Details concerning the development of these measures were contained in the preamble of the proposed rule and are not repeated here. Consistent with section 305(d) of the Magnuson-Stevens Act, this final rule also addresses regulatory text that is unnecessary, outdated, or unclear.

Specification of Scallop Overfishing Limit (OFL), Acceptable Biological Catch (ABC), Annual Catch Limits (ACL), Annual Catch Targets (ACT), Annual Projected Landings (APL) and Set-Asides for the 2023 Fishing Year, and Default Specifications for Fishing Year 2024

The Council set the OFL based on a fishing mortality (F) of 0.61, equivalent to the F threshold updated through the Northeast Fisheries Science Center's most recent scallop benchmark stock assessment that was completed in September 2020. The ABC and the equivalent total ACL for each fishing year are based on an F of 0.45, which is the F associated with a 25-percent probability of exceeding the OFL. The Council's Scientific and Statistical Committee (SSC) recommended scallop fishery ABCs of 43.7 million lb. (19,828 mt) for 2023 and 44.5 million lb. (20,206 mt) for the 2024 fishing year, after accounting for discards and incidental mortality. The SSC will reevaluate and potentially adjust the ABC for 2024 when the Council develops the next framework adjustment.

Table 1 outlines the scallop fishery catch limits.

Table 1--Scallop Catch Limits (mt) for Fishing Years 2023 and 2024 for the Limited Access and Limited Access General Category (LAGC) Individual Fishing Quota (IFQ) Fleets

Catch limits	2023 (mt)	2024 (mt) ¹
OFL	27,504	29,151
ABC/ACL (discards removed)	19,828	20,206
Incidental Landings	23	23
Research Set-Aside (RSA)	578	578
Observer Set-Aside	198	202
Northern Gulf of Maine (NGOM) Set-Aside	175	130
ACL for fishery	18,853	19,403
Limited Access ACL	17,816	18,335
LAGC Total ACL	1,037	1,067
LAGC IFQ ACL (5 percent of ACL)	943	970
Limited Access with LAGC IFQ ACL (0.5 percent of ACL)	94	97
Limited Access ACT	15,441	15,891
APL (after set-asides removed)	10,368	(1)
Limited Access APL (94.5 percent of APL)	9,798	(1)
Total IFQ Annual Allocation (5.5 percent of APL) ²	570	428
LAGC IFQ Annual Allocation (5 percent of APL) ²	518	389
Limited Access with LAGC IFQ Annual Allocation (0.5 percent of APL) ²	52	39

¹ The catch limits for the 2024 fishing year are subject to change through a future specifications action or framework adjustment. This includes the setting of an APL for 2024 that will be based on the 2023 annual scallop surveys.

² As a precautionary measure, the 2024 IFQ and annual allocations are set at 75 percent of the 2023 IFQ Annual Allocations.

This action deducts 1.275 million lb (578 mt) of scallops annually in 2023 and 2024 from the respective ABCs for use as the Scallop RSA to fund scallop research.

Participating vessels are compensated through the sale of scallops harvested under RSA projects. Of the 1.275-million lb (578-mt) allocation, NMFS has already allocated 47,057 lb (21,345 kg) to previously funded multi-year projects as part of the 2022 RSA awards process. NMFS reviewed proposals submitted for consideration of 2023 RSA awards and intends to announce project selections in late March. Details on the 2023 RSA awards will be posted on our website when announced.

This action also deducts 1 percent of the ABC for the industry-funded observer program to help defray the cost to scallop vessels that carry an observer. The observer set-aside is 198 mt for 2023 and 202 mt for 2024. The Council may adjust the 2024

observer set-aside when it develops specific, non-default measures for 2024. In fishing year 2023, the compensation rates for limited access vessels in open areas fishing under days-at-sea (DAS) is 0.11 DAS per DAS fished. For access area trips, the compensation rate is 250 lb. (113.4 kg), in addition to the vessel's possession limit for the trip for each day or part of a day an observer is onboard.

For LAGC IFQ trips less than 24 hours, a vessel will be able to harvest the trip limit and the daily compensation rate on the observed trip, or the vessel could harvest any unfished compensation on a subsequent trip while adhering to the commercial possession limit. LAGC IFQ vessels may possess an additional 250 lb. (113.4 kg) per trip on trips less than 24 hours when carrying an observer.

For trips exceeding 24 hours, the daily compensation rate of 250 lb. (113.4 kg) will be prorated at 12-hour increments. The amount of compensation a vessel can receive on one trip will be capped at 2 days (48 hours) and vessels fishing longer than 48 hours will not receive additional compensation allocation. For example, if the observer compensation rate is 250 lb./day (113.4 kg/day) and an LAGC IFQ vessel carrying an observer departs on July 1 at 2200 and lands on July 3 at 0100, the length of the trip would equal 27 hours, or 1 day and 3 hours. In this example, the LAGC IFQ vessel would be eligible for 1 day plus 12 hours of compensation allocation, *i.e.*, 375 lb (170.1 kg).

For NGOM trips, a vessel will be able to harvest the trip limit and the daily compensation rate on the observed trip. NGOM vessels may possess an additional 125 lb (56.7 kg) per trip when carrying an observer.

NMFS may adjust the compensation rate throughout the fishing year, depending on how quickly the fleets are using the set aside. The Council may adjust the 2024 observer set-aside when it develops specific, non-default measures for 2024.

Open Area Days-at-Sea (DAS) Allocations

This action implements vessel-specific DAS allocations for each of the three limited access scallop DAS permit categories (*i.e.*, full-time, part-time, and occasional) for 2023 and 2024 (Table 2). The 2023 DAS allocations are the same as those allocated to the limited access fleet in 2022. Framework 36 sets 2024 DAS allocations at 75 percent of fishing year 2023 DAS allocations as a precautionary measure. This is to avoid over-allocating DAS to the fleet in the event that the 2024 specifications action is delayed past the start of the 2024 fishing year. The allocations in Table 2 exclude any DAS deductions that are required if the limited access scallop fleet exceeds its 2022 sub-ACL.

Table 2--Scallop Open Area DAS Allocations for 2023 and 2024

Permit Category	2023	2024 (Default)
Full-Time	24.00	18.00
Part-Time	9.60	7.20
Occasional	2.00	1.50

Changes to Fishing Year 2023 Sea Scallop Access Area Boundaries

For fishing year 2023 and the start of 2024, Framework 36 changes the boundaries of Area II (Table 3) to include all of both areas formerly known as Closed Area II and Closed Area II-East. This area was expanded to better support rotational access in fishing year 2023.

Table 3—Area II Access Area

Point	N latitude	W longitude	Note
AII1	41°30'	67°20'	
AII2	41°30'	⁽¹⁾	⁽²⁾
AII3	40°40'	⁽³⁾	⁽²⁾
AII4	40°40'	67°20'	
AII1	41°30'	67°20'	

¹ The intersection of 41°30' N lat. and the U.S.-Canada Maritime Boundary, approximately 41°30' N lat., 66°34.73' W long.

² From Point AII2 connected to Point AII3 along the U.S.-Canada Maritime Boundary.

³ The intersection of 40°40' N lat. and the U.S.-Canada Maritime Boundary, approximately 40°40' N lat. and 65°52.61' W long.

Fishing Year 2023 Sea Scallop Closed Area Boundaries

Framework 36 keeps the New York Bight and Nantucket Lightship-West Scallop

Rotational Areas closed to scallop fishing to optimize growth of the several scallop year classes within the closure areas and to support scallop fishing in subsequent years.

This action also closes the Elephant Trunk (Table 4) and the Area I (Table 5) Scallop Rotational Areas. The Council proposed closing these areas to support the growth of small scallops in the absence of fishing pressure.

Table 4—Elephant Trunk Scallop Closed Area

Point	N latitude	W longitude
ET1	38°50'	74°20'
ET2	38°50'	73°30'
ET3	38°10'	73°30'
ET4	38°10'	74°20'
ET1	38°50'	74°20'

Table 5--Area I Scallop Closed Area

Point	N latitude	W longitude
AIA1	41°30'	68°30'
AIA2	40°58'	68°30'
AIA3	40°54.95'	68°53.37'
AIA4	41°30'	69°23'
AIA1	41°30'	68°30'

Nantucket Lightship-South-Deep and Nantucket Lightship-Triangle Scallop Rotational Areas Reverting to Open Area

Framework 36 reverts the Nantucket Lightship-South-Deep and Nantucket Lightship-Triangle Scallop Rotational Areas to part of the open area. These areas were previously managed as part of the area rotation program; however, there is not enough biomass to support rotational access on an equitable basis to the entire Limited Access fleet nor was there enough recruitment seen in the annual survey to support keeping these areas as part of the program. Based on this information, they no longer meet the criteria for either closure or controlled access as defined in 50 CFR 648.55(a)(6). These areas become part of the open area and can be fished as part of the DAS program or on LAGC IFQ open area trips. Because fishing year 2022 carryover access area fishing will

continue in the Nantucket Lightship-South-Deep for the first 60 days of the 2023 fishing year, these areas will not revert to open area until May 31, 2023.

Nantucket Lightship-North Scallop Rotational Area (NLS-N) to Support LAGC IFQ Access and Closed for the Limited Access Fleet for 90 Days Before Reverting to Open Area.

Framework 36 allocates LAGC IFQ access area trips that can be taken in either the NLS-N (Table 6) or Area II (Table 3) for the 2023 fishing year. Once the Regional Administrator has determined that the total number of LAGC IFQ access area trips have been, or are projected to be taken, the NLS-N shall become part of the open area for LAGC IFQ vessels.

Limited access vessels will be prohibited from fishing in the area during the first 90 days of fishing year 2023 (*i.e.*, through June 29, 2023). On June 30, 2023, the NLS-N will revert to part of the open area for the limited access fleet. This area can then be fished by the limited access fleet on DAS.

Table 6—Nantucket Lightship-North Scallop Rotational Area

Point	N latitude	W longitude
NLSN1	40°50'	69°30'
NLSN2	40°50'	69°00'
NLSN3	40°28'	69°00'
NLSN4	40°28'	69°30'
NLSN1	40°50'	69°30'

Full-Time Limited Access Allocations and Trip Possession Limits for Scallop Access Areas

Table 7 provides the limited access full-time allocations for all of the access areas for the 2023 fishing year and the first 60 days of the 2024 fishing year. These allocations can be landed in as many trips as needed, so long as vessels do not exceed the possession limit (also in Table 7) on any one trip.

Table 7-- Scallop Access Area Full-Time Limited Access Vessel Poundage Allocations and Trip Possession Limits for 2023 and 2024

Rotational access area	Scallop per trip possession limit	2023 Scallop allocation	2024 Scallop allocation (default)
Area II	12,000 lb. (5,443 kg)	24,000 lb. (10,886 kg)	0 lb. (0 kg)
Total		24,000 lb. (10,886 kg)	0 lb. (0 kg)

Part-Time Limited Access Allocations and Trip Possession Limits for Scallop Access Areas

Table 8 provides the limited access part-time allocations for all of the access areas for the 2023 fishing year and the first 60 days of the 2024 fishing year. These allocations can be landed in as many trips as needed, so long as the vessels do not exceed the possession limit (also in Table 8) on any one trip.

Table 8-- Scallop Access Area Part-Time Limited Access Vessel Poundage Allocations and Trip Possession Limits for 2023 and 2024

Rotational access area	Scallop per trip possession limit	2023 Scallop allocation	2024 Scallop allocation (default)
Area II	9,600 lb (4,082 kg)	9,600 lb (4,354 kg)	0 lb (0 kg).
Total		9,600 lb (4,354 kg)	0 lb (0 kg).

LAGC Measures

1. *ACL and IFQ Allocation for LAGC Vessels with IFQ Permits.* For LAGC vessels with IFQ permits, this action implements a 943-mt ACL for 2023 and a 970-mt default ACL for 2024 (see Table 1). These sub-ACLs have no associated regulatory or management requirements, but provide a ceiling on overall landings by the LAGC IFQ fleets. If the fleet were to reach this ceiling, any overages would be deducted from the following year's sub-ACL. The annual allocation to the LAGC IFQ-only fleet for fishing years 2023 and 2024 based on APL would be 518 mt for 2023 and 389 mt for 2024 (see Table 1). Each vessel's IFQ will be calculated from these allocations based on APL.

2. *ACL and IFQ Allocation for Limited Access Scallop Vessels with IFQ Permits.* For limited access scallop vessels with IFQ permits, this action implements a 94-mt ACL for 2023 and a default 97-mt ACL for 2024 (see Table 1). These sub-ACLs have no

associated regulatory or management requirements, but provide a ceiling on overall landings by this fleet. If the fleet were to reach this ceiling, any overages would be deducted from the following year's sub-ACL. The annual allocation to limited access vessels with IFQ permits would be 52 mt for 2023 and 39 mt for 2024 (see Table 1). Each vessel's IFQ will be calculated from these allocations based on APL.

3. *LAGC IFQ Trip Allocations for Scallop Access Areas.* Framework 36 allocates LAGC IFQ vessels a fleet-wide number of trips for fishing year 2023 and no default trips for fishing year 2024 (see Table 9). The scallop catch associated with the total number of trips for all areas combined (571 trips) for fishing year 2023 is equivalent to the 5.5-percent of total projected catch from access areas.

Once the Regional Administrator has determined that the total number of LAGC IFQ access area trips have been, or are projected to be taken, the Nantucket Lightship North Scallop Rotational Area shall become part of the open area for LAGC IFQ vessels, and Area II would then be closed to LAGC IFQ fishing.

Table 9--Fishing Years 2023 and 2024 LAGC IFQ Trip Allocations for Scallop Access Areas

Scallop access area	2023	2024 ¹
Nantucket Lightship-North/Area II	571	0
Total	571	0

¹ The LAGC IFQ access area trip allocations for the 2024 fishing year are subject to change through a future specifications action or framework adjustment.

4. *NGOM Scallop Fishery Landing Limits.* This action implements total allowable landings (TAL) in the NGOM of 434,311 lb (197,000 kg) for fishing year 2023. This action deducts 25,000 lb (11,340 kg) of scallops annually for 2023 and 2024 from the NGOM TAL to increase the overall Scallop RSA to fund scallop research. In addition, this action deducts 1 percent of the NGOM ABC from the NGOM TAL for fishing years 2023 and 2024 to support the industry-funded observer program to help defray the cost to scallop vessels that carry an observer (Table 10).

Framework 36 sets an NGOM Set-Aside of 380,855 lb (172,753 kg) for fishing

year 2023 and a default NGOM Set-Aside of 285,641 lb (211,365 kg) for fishing year 2024. Because the NGOM Set-Aside for fishing years 2023 and 2024 is below the 800,000-lb (362,874-kg) trigger, Framework 36 does not allocate any landings to the NGOM APL. Table 10 describes the breakdown of the NGOM TAL for the 2023 and 2024 (default) fishing years.

Table 10--NGOM Scallop Fishery Landing Limits for Fishing Year 2023 and 2024

Landings Limits	2023		2024⁽¹⁾	
NGOM TAL	434,311 lb	197,000 kg	318,573 lb	114,502 kg ⁽³⁾
1 percent NGOM ABC for Observers	10,538 lb	4,780 kg	7,932 lb	3,598 kg ⁽³⁾
RSA Contribution	25,000 lb	11,340 kg	25,000 lb	11,340 kg
NGOM Set-Aside	380,855 lb	172,753 kg ⁽²⁾	285,641 lb	129,565 kg
NGOM APL	— ⁽⁴⁾	— ⁽⁴⁾	— ⁽⁴⁾	— ⁽⁴⁾

¹ The landings limits for the 2024 fishing year are subject to change through a future specifications action or framework adjustment.

² For fishing year 2023, the NGOM Set-Aside has been reduced by 17,918 lb (8,127 kg) to account for a limited access general category NGOM total allowable catch overage in 2021.

³ The catch limits for the 2024 fishing year are subject to change through a future specifications action or framework adjustment. This includes the setting of an APL for 2024 that will be based on the 2023 annual scallop surveys.

⁴ NGOM APL is set when the NGOM Set-Aside is above 800,000 lb (36,2874 kg).

Scallop Incidental Landings Target TAL.

This action implements a 50,000-lb (22,680-kg) scallop incidental landings target TAL for fishing years 2023 and 2024 to account for mortality from vessels that catch scallops while fishing for other species and ensure that F targets are not exceeded. The Council and NMFS may adjust this target TAC in a future action if vessels catch more scallops under the incidental target TAC than predicted.

RSA Harvest Restrictions

This action allows vessels participating in RSA projects to harvest RSA compensation from the open area only. All vessels are prohibited from harvesting RSA compensation pounds in all access areas. Vessels are prohibited from fishing for RSA compensation in the NGOM unless the vessel is fishing an RSA compensation trip using NGOM RSA allocation that was awarded to an RSA project. Finally, Framework 36

prohibits the harvest of RSA from any access areas under default 2024 measures. At the start of 2024, RSA compensation may only be harvested from open areas. The Council will re-evaluate this default prohibition measure in the action that would set final 2024 specifications.

Regulatory Corrections Under Regional Administrator Authority

This rule includes revisions to address regulatory text that is unnecessary, outdated, or unclear. The revisions at § 648.14(i)(1)(i), (ii), (iv)(A) and (B), would clarify that these paragraphs are referring to Federal scallop permits. Other revisions at § 648.14(i)(1)(vi)(A)(2) would clarify that a vessel can transit Habitat Management Areas provided that its gear is stowed and not available for immediate use as defined in § 648.2. Additional revisions at § 648.52(d) would update a reference to Scallop Rotational Access Area allocations.

This rule also changes the in-shell possession limit of scallops from a bushel conversion (1 bushel of in-shell scallops = 8 lb (3.6 kg) of scallop meats) to a weight conversion (8.33 lb (3.78 kg) of in-shell scallops = 1 lb (0.45 kg) of scallop meats). NMFS is making this adjustment to provide more uniformity among the possession limit measurements by revising the in-shell possession limit to a widely accepted poundage conversion. The revision to the in-shell possession limit is resource neutral because NMFS already uses this conversion to charge an LAGC vessel's IFQ and/or the NGOM Set-Aside. Furthermore, this change will continue to support the boutique in-shell scallop fishery by retaining an in-shell possession limit for this fleet. The revisions at § 648.2 'bushel' definition, § 648.14(i)(2)(ii)(A) and (B), (i)(2)(iii)(B), (i)(2)(vi)(D), § 648.51(a), throughout § 648.52, and at § 648.59(b)(3)(i), change the in-shell possession limit of scallops from a bushel conversion to a lb conversion.

All revisions discussed in this section are consistent with section 305(d) of the Magnuson-Stevens Act, which provides authority to the Secretary of Commerce to

promulgate regulations necessary to ensure that amendments to an FMP are carried out in accordance with the FMP and the Magnuson-Stevens Act.

Comments and Responses

We received no comments on the proposed rule.

Changes from the Proposed Rule

There are no changes from the proposed rule.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this final rule is consistent with the FMP, other provisions of the Magnuson-Stevens Act and other applicable law.

The Office of Management and Budget has determined that this rule is not significant pursuant to E.O. 12866.

This final rule does not contain policies with federalism or “takings” implications, as those terms are defined in E.O. 13132 and E.O. 12630, respectively.

This action does not contain any collection-of-information requirements subject to the Paperwork Reduction Act (PRA).

The Assistant Administrator for Fisheries has determined that the need to implement the measures of this rule in an expedited manner is necessary to achieve conservation objectives for the scallop fishery and certain fish stocks. This constitutes good cause, under authority contained in 5 U.S.C. 553(d)(3), to waive the 30-day delay in the date of effectiveness and to make the final Framework 36 measures effective upon filing for public inspection with the Office of the Federal Register. The 2023 fishing year begins on April 1, 2023. The New England Fishery Management Council adopted Framework 36 to the Atlantic Sea Scallop FMP on December 7, 2022, and submitted a preliminary draft of Framework 36 to NMFS on January 30, 2023. NMFS has taken all diligent steps to promulgate this rule as quickly as possible.

If Framework 36 is delayed beyond April 1, certain default measures, including access area designations, DAS, IFQ, RSA, and observer set-aside allocations, would automatically be put into place. Most of these default allocations are set at higher harvest levels than what would be implemented under Framework 36. Although these default allocations were intentionally set at levels low enough to avoid exceeding the final Framework 36 allocations, the 2022 scallop survey found lower than expected harvestable biomass in some areas. As a result, some of the default measures implemented for 2023 exceed those that are proposed in Framework 36, such that the fishery would be negatively impacted by a delayed implementation.

The survey in the NGOM in 2022 found lower than expected harvestable biomass in the area. As a result, the default allocation in the NGOM is above the Framework 36 allocation (Default: 465,980 lb (211,365 kg); Framework 36: 380,855 lb (172,753 kg)). This fishery is prosecuted quickly, landing over 11,000 lb/day (4,990 kg/day) in fishing year 2022. A delay in implementation could lead to fishing the NGOM at a higher fishing mortality than intended. This has happened in the past as a result of delayed implementation. For instance, this year we are implementing a 17,918-lb (8,127-kg) accountability measure for an overage in the NGOM that occurred when the fishing year 2021 specifications were implemented late.

Overall, the 2022 scallop survey found lower than expected harvestable biomass. This resulted in a Framework 36 IFQ allocation that is lower than the default allocation (Default: 1,177,268 lb (534,000 kg); Framework 36: 1,142,890 lb (518,406 kg)). If Framework 36 is not implemented by April 1, 2023, a mid-season reduction of IFQ allocations will be required when the framework becomes effective. This will cause confusion throughout the IFQ fleet and will be burdensome because many vessel owners lease all, or a portion of, their IFQ at the beginning of the season. A mid-season reduction in IFQ can lead to unintentional IFQ overages. In addition to the IFQ allocation

adjustment, default measures allocate trips for the IFQ fleet into Area I, which will be closed under Framework 36 to protect small scallops.

Under default measures, each full-time vessel has 18 DAS and 1 access area trip for 15,000 lb (6,804 kg) in Area II. In addition to 5 U.S.C. 553(d)(3), we waive the 30-day delay in effectiveness under 5 U.S.C. 553(d)(1) because this action relieves restrictions by providing full-time vessels with an additional 6 DAS (24 DAS total) and 9,000 lb (4,082 kg) in access area allocations (24,000 lb (10,886 kg) total). Framework 36 also expands the footprint of Area II allowing the fleet to fish Area II in a more sustainable manner. Accordingly, this action also prevents more restrictive aspects of the default measures from going into place.

Framework 36 could not have been put into place sooner to allow for a 30-day delayed effectiveness because the information and data necessary for the Council to develop the framework was not available in time for this action to be forwarded to NMFS and implemented by April 1, 2023, the beginning of the scallop fishing year. Delaying the implementation of this action for 30 days would delay positive economic benefits to the scallop fleet, could negatively impact the access area rotation program by delaying fishing in areas that should be available, and could adversely affect scallop stocks.

Pursuant to section 604 of the Regulatory Flexibility Act (RFA), NMFS has completed a final regulatory flexibility analysis (FRFA) in support of Framework 36, as included below. This FRFA incorporates the IRFA, a summary of the significant issues raised by public comments in response to the IRFA, NMFS' responses to those comments, a summary of the analyses completed in the Framework 36 EA, and the preamble to this final rule. A summary of the IRFA was published in the proposed rule for this action and is not repeated here. A description of why this action was considered, the objectives of, and the legal basis for this rule is contained in Framework 36 and in the preambles to the proposed rule and this final rule and are not repeated here. All of the

documents that constitute the FRFA (including the preambles of the proposed and final rules) are available from NMFS and/or the Council, and a copy of the IRFA, the RIR, and the EA are available upon request (see **ADDRESSES**).

A Summary of the Significant Issues Raised by the Public in Response to the IRFA, a Summary of the Agency's Assessment of Such Issues, and a Statement of Any Changes Made in the Final Rule as a Result of Such Comments

We received no comments on the IRFA or on the more general economic impacts of the rule.

Description and Estimate of Number of Small Entities to Which the Rule Would Apply

These regulations would apply to all vessels with limited access and LAGC scallop permits, and there would be economic impacts to small entities. Those impacts are described in detail in the draft of Framework 36, specifically, in the IRFA (Section 7.13) and in the Economic and Social Impacts section (Section 6.6). Framework 36 (Section 5.6) provides extensive information on the number of vessels that are affected by this action, their home and principal state, dependency on the scallop fishery, and revenues and profits (see **ADDRESSES**). There were 315 vessels that held full-time limited access permits in fishing year 2021, including 250 dredge, 54 small-dredge, and 11 scallop trawl permits. In the same year, there were also 29 part-time limited access permits in the sea scallop fishery. No vessels were issued occasional scallop permits in 2021. In 2019, NMFS reported that there were a total of 300 IFQ only permits, with 212 issued and 88 in a Confirmation of Permit History (CPH). There were a total of 110 NGOM permits issued in 2019. About 114 of the IFQ vessels and 53 NGOM vessels actively fished for scallops in fishing year 2021. The remaining IFQ permits likely leased out scallop IFQ allocations with their permits in Confirmation of Permit History. Section 6.6 of Framework 36 provides extensive information on the number and size of vessels

that would be affected by the proposed regulations, their home and principal state, dependency on the scallop fishery, and revenues and profits (see **ADDRESSES**).

For RFA purposes, NMFS defines a small business in a shellfish fishery as a firm that is independently owned and operated with receipts of less than \$11 million annually (see 50 CFR 200.2). Individually permitted vessels may hold permits for several fisheries, harvesting species of fish that are regulated by several different fishery management plans, even beyond those impacted by this action. Furthermore, multiple permitted vessels and/or permits may be owned by entities affiliated by stock ownership, common management, identity of interest, contractual relationships, or economic dependency. For the purposes of this analysis, “ownership entities” are defined as those entities with common ownership as listed on the permit application. Only permits with identical ownership are categorized as an “ownership entity.” For example, if five permits have the same seven persons listed as co-owners on their permit applications, those seven persons would form one “ownership entity,” that holds those five permits. If two of those seven owners also co-own additional vessels, that ownership arrangement would be considered a separate “ownership entity” for the purpose of this analysis.

On June 1 of each year, ownership entities are identified based on a list of all permits for the most recent complete calendar year. The current ownership dataset is based on the calendar year 2021 permits and contains average gross sales associated with those permits for calendar years 2019 through 2021. Matching the potentially impacted 2021 fishing year permits described above (limited access and LAGC IFQ) to calendar year 2021 ownership data results in 147 distinct ownership entities for the limited access fleet and 87 distinct ownership entities for the LAGC IFQ fleet. Based on the Small Business Administration (SBA) guidelines, 139 of the limited access distinct ownership entities and 87 LAGC IFQ entities are categorized as small. Eight limited access and no LAGC IFQ entities are categorized as large business entities with annual fishing revenues

over \$11 million in 2021. There were 52 distinct small business entities with NGOM permits in 2021.

Description of Projected Reporting, Recordkeeping, and other Compliance Requirements of the Final Rule

This action contains no new collection-of-information, reporting, or recordkeeping requirements. This final rule does not require specific action on behalf of regulated entities other than to ensure they stay within the specifications that are set.

Description of the Steps the Agency Has Taken to Minimize the Significant Economic Impact on Small Entities Consistent with the Stated Objectives of Applicable Statutes

During the development of Framework 36, NMFS and the Council considered ways to reduce the regulatory burden on, and provide flexibility for, the regulated entities in this action. Framework 36 increases the opportunity for LAGC IFQ vessels to operate in access areas by allowing LAGC IFQ vessels to fish in Area II for the first time. Area II is an access area that is offshore and has historically been difficult for the LAGC fleet to access. Framework 36 allows the LAGC IFQ fleet to fish 2023 access area trips in either Nantucket Lightship North or Area II. This could have potentially slight positive impacts on the resource overall by spreading effort out and providing more access in areas with higher catch rates. It also could potentially reduce total area swept since, the LAGC IFQ component would have the opportunity to fish on high densities of scallops in all open access areas. Alternatives to the measures in this final rule are described in detail in Framework 36, which includes an EA, RIR, and IRFA (see **ADDRESSES**). The measures implemented by this final rule minimize the long-term economic impacts on small entities to the extent practicable. The only alternatives for the prescribed catch limits that were analyzed were those that met the legal requirements to implement effective conservation measures. Specifically, catch limits must be derived using SSC-approved scientific calculations based on the Scallop FMP. Moreover, the limited number

of alternatives available for this action must also be evaluated in the context of an ever-changing FMP, as the Council has considered numerous alternatives to mitigating measures every fishing year in amendments and frameworks since the establishment of the FMP in 1982.

Overall, this rule minimizes adverse long-term impacts by ensuring that management measures and catch limits result in sustainable fishing mortality rates that promote stock rebuilding, and as a result, maximize optimal yield. The measures implemented by this final rule also provide additional flexibility for fishing operations in the short-term.

Small Entity Compliance Guide

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group of related rules for which an agency is required to prepare a FRFA, the agency will publish one or more guides to assist small entities in complying with the rule and will designate such publications as “small entity compliance guides.” The agency will explain the actions a small entity is required to take to comply with a rule or group of rules. As part of this rulemaking process, a bulletin to permit holders that also serves as a small entity compliance guide was prepared. This final rule and the guide (*i.e.*, bulletin) will be sent via email to the Greater Atlantic Regional Fisheries Office scallop email list and are available on the website at:

<https://www.fisheries.noaa.gov/action/framework-adjustment-36-atlantic-sea-scallop-fishery-management-plan>. Hard copies of the guide and this final rule will be available upon request (see **ADDRESSES**).

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Recordkeeping and reporting requirements.

Dated: March 29, 2023.

Samuel D. Rauch, III

Deputy Assistant Administrator for Regulatory Programs,

National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 648 is amended as follows:

PART 648--FISHERIES OF THE NORTHEASTERN UNITED STATES

1. The authority citation for part 648 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

Subpart A—General Provisions

2. In § 648.2, revise the definition of “bushel” to read as follows:

§ 648.2 Definitions.

* * * * *

Bushel (bu) means a standard unit of volumetric measurement deemed to hold 1.88 ft³ (53.24 L) of surfclams or ocean quahogs in shell.

* * * * *

3. In § 648.14, revise paragraphs (i)(1)(i) and (ii), (i)(1)(iv)(A) and (B), (i)(1)(vi)(A)(2), (i)(2)(ii)(A), (i)(2)(ii)(B) introductory text, (i)(2)(iii)(B), (i)(2)(vi)(B) and (D), and (i)(3)(v)(E) to read as follows:

§ 648.14 Prohibitions.

* * * * *

(i) * * *

(1) * * *

(i) *Permit requirement.* Fish for, possess, or land scallops without the vessel having been issued and carrying onboard a valid Federal scallop permit in accordance with § 648.4(a)(2), unless the scallops were harvested by a vessel that has not been issued

a Federal scallop permit and fishes for scallops exclusively in state waters.

(ii) *Gear and crew requirements.* Have a shucking or sorting machine on board a vessel while in possession of more than 600 lb (272.2 kg) of shucked scallops, unless that vessel has not been issued a Federal scallop permit and fishes exclusively in state waters.

* * * * *

(iv) * * *

(A) Land, offload, remove, or otherwise transfer; or attempt to land, offload, remove or otherwise transfer; scallops from one vessel to another, unless that vessel has not been issued a Federal scallop permit and fishes exclusively in state waters.

(B) Sell, barter, or trade, or otherwise transfer scallops from a vessel; or attempt to sell, barter or trade, or otherwise transfer scallops from a vessel; for a commercial purpose, unless the vessel has been issued a valid Federal scallop permit pursuant to § 648.4(a)(2), or the scallops were harvested by a vessel that has not been issued a Federal scallop permit and fishes for scallops exclusively in state waters.

* * * * *

(vi) * * *

(A) * * *

(2) Transit or enter the Habitat Management Areas specified in § 648.370, except as provided by § 648.370(i).

* * * * *

(2) * * *

(ii) * * *

(A) Possess more than 40 lb (18.1 kg) of shucked, or 333 lb (151 kg) of in-shell scallops, or participate in the scallop DAS or Area Access programs, while in the possession of trawl nets that have a maximum sweep exceeding 144 ft (43.9 m), as measured by the total length of the footrope that is directly attached to the webbing of the

net, except as specified in § 648.51(a)(1), unless the vessel is fishing under the Northeast multispecies or monkfish DAS program.

(B) While under or subject to the DAS allocation program, in possession of more than 40 lb (18.1 kg) of shucked scallops or 333 lb (151 kg) of in-shell scallops, or fishing for scallops in the EEZ:

* * * * *

(iii) * * *

(B) Fish for, possess, or land more than 3,332 lb (1,511 kg) of in-shell scallops inside the VMS Demarcation Line on or by a vessel, except as provided in the state waters exemption, as specified in § 648.54.

* * * * *

(vi) * * *

(B) Transit the Area II Scallop Rotational Area or the New York Bight Scallop Rotational Area, as defined in § 648.60(b) and (j), unless there is a compelling safety reason for transiting the area and the vessel's fishing gear is stowed and not available for immediate use as defined in § 648.2.

(C) * * *

(D) Possess more than 3,332 lb (1,511 kg) of in-shell scallops outside the boundaries of a Scallop Access Area by a vessel that is declared into the Scallop Access Area Program as specified in § 648.59.

* * * * *

(3) * * *

(v) * * *

(E) Transit the Area II Scallop Rotational Area or New York Bight Scallop Rotational Area, as defined in § 648.60(b) and (j), unless there is a compelling safety

reason for transiting the area and the vessel's fishing gear is stowed and not available for immediate use as defined in § 648.2.

* * * * *

4. In § 648.51, revise paragraphs (a) introductory text and (f)(1) to read as follows:

§ 648.51 Gear and crew restrictions

(a) *Trawl vessel gear restrictions.* Trawl vessels issued a limited access scallop permit under § 648.4(a)(2) while fishing under or subject to the DAS allocation program for scallops and authorized to fish with or possess on board trawl nets pursuant to § 648.51(f), any trawl vessels in possession of more than 40 lb (18.14 kg) of shucked, or 333 lb (151 kg) of in-shell scallops in or from the EEZ, and any trawl vessels fishing for scallops in the EEZ, must comply with the following:

* * * * *

(f) * * *

(1) *Restrictions.* A vessel issued a limited access scallop permit fishing for scallops under the scallop DAS allocation program may not fish with, possess on board, or land scallops while in possession of a trawl net, unless such vessel has been issued a limited access trawl vessel permit that endorses the vessel to fish for scallops with a trawl net. A limited access scallop vessel issued a trawl vessel permit that endorses the vessel to fish for scallops with a trawl net and general category scallop vessels enrolled in the Area Access Program as specified in § 648.59, may not fish for scallops with a trawl net in the Area II Rotational Area specified in § 648.60(b).

* * * * *

5. In § 648.52, revise paragraphs (a) through (f) to read as follows:

§ 648.52 Possession and landing limits.

(a) *IFQ trips - (1) Open area trips.* A vessel issued an IFQ scallop permit that is declared into the IFQ scallop fishery in the open area, as specified in § 648.10(f), or on a properly declared NE multispecies, surfclam, or ocean quahog trip (or other fishery requiring a VMS declaration) and not fishing in a scallop access area, unless as specified in paragraph (g) of this section or exempted under the state waters exemption program described in § 648.54, may not possess or land, per trip, more than 600 lb (272 kg) of shucked scallops, or possess more than 4,998 lb (2,267 kg) of in-shell scallops shoreward of the VMS Demarcation Line. Such a vessel may land scallops only once in any calendar day. Such a vessel may possess up to 6,664 lb (3,023 kg) of in-shell scallops seaward of the VMS Demarcation Line on a properly declared IFQ scallop trip, or on a properly declared NE multispecies, surfclam, or ocean quahog trip, or other fishery requiring a VMS declaration, and not fishing in a scallop access area.

(2) *Access area trips.* A vessel issued an IFQ scallop permit that is declared into the IFQ Scallop Access Area Program, as specified in § 648.10(f), may not possess or land, per trip, more than 800 lb (363 kg) of shucked scallops, or possess more than 6,664 lb (3,023 kg) of in-shell scallops shoreward of the VMS Demarcation Line. Such a vessel may land scallops only once in any calendar day. Such a vessel may possess up to 6,664 lb (3,023 kg) of in-shell scallops seaward of the VMS Demarcation Line on a properly declared IFQ scallop access area trip.

(b) *NGOM trips.* A vessel issued a NGOM scallop permit, or an IFQ scallop permit that is declared into the NGOM scallop fishery and fishing against the NGOM Set-Aside as described in § 648.62, unless exempted under the state waters exemption program described under § 648.54, may not possess or land, per trip, more than 200 lb (90.7 kg) of shucked scallops, or possess more than 1,666 lb (756) of in-shell scallops shoreward of the VMS Demarcation Line. Such a vessel may land scallops only once in

any calendar day. Such a vessel may possess up to 3,332 lb (1,511 kg) of in-shell scallops seaward of the VMS demarcation line on a properly declared NGOM scallop fishery trip.

(c) *Incidental trips.* A vessel issued an Incidental scallop permit, or an IFQ scallop permit that is not declared into the IFQ scallop fishery or on a properly declared NE multispecies, surfclam, or ocean quahog trip or other fishery requiring a VMS declaration as required under § 648.10(f), unless exempted under the state waters exemption program described under § 648.54, may not possess or land, per trip, more than 40 lb (18.1 kg) of shucked scallops, or possess more than 333 lb (151 kg) of in-shell scallops shoreward of the VMS Demarcation Line. Such a vessel may land scallops only once in any calendar day. Such a vessel may possess up to 666 lb (302 kg) of in-shell scallops seaward of the VMS Demarcation Line.

(d) *Limited access vessel access area trips.* Owners or operators of vessels with a limited access scallop permit that have properly declared into the Scallop Access Area Program as described in § 648.59 are prohibited from fishing for or landing per trip, or possessing at any time, scallops in excess of any sea scallop possession and landing limit set by the Regional Administrator in accordance with § 648.59(b)(3).

(e) *Limited access vessel open area in-shell scallop possession limit.* Owners or operators of vessels issued limited access permits are prohibited from fishing for, possessing, or landing per trip more than 3,332 lb (1,511 kg) of in-shell scallops shoreward of the VMS Demarcation Line, unless when fishing under the state waters exemption specified under § 648.54.

(f) *Limited access vessel access area in-shell scallop possession limit.* A limited access vessel that is declared into the Scallop Area Access Program as described in § 648.59, may not possess more than 3,332 lb (1,511 kg) of in-shell scallops outside of the Access Areas described in § 648.60.

* * * * *

6. In § 648.53, revise paragraphs (a)(9) and (b)(3) to read as follows:

§ 648.53 Overfishing limit (OFL), acceptable biological catch (ABC), annual catch limits (ACL), annual catch targets (ACT), annual projected landings (APL), DAS allocations, and individual fishing quotas (IFQ).

(a) * * *

(9) *Scallop fishery catch limits.* The following catch limits will be effective for the 2023 and 2024 fishing years:

Table 2 to Paragraph (a)(9) - Scallop Fishery Catch Limits

Catch limits	2023 (mt)	2024 (mt) ¹
OFL	27,504	29,151
ABC/ACL (discards removed)	19,828	20,206
Incidental Landings	23	23
RSA	578	578
Observer Set-Aside	198	202
NGOM Set-Aside	175	130
ACL for fishery	18,853	19,403
Limited Access ACL	17,816	18,335
LAGC Total ACL	1,037	1,067
LAGC IFQ ACL (5 percent of ACL)	943	970
Limited Access with LAGC IFQ ACL (0.5 percent of ACL)	94	97
Limited Access ACT	15,441	15,891
APL (after set-asides removed)	10,368	(1)
Limited Access APL (94.5 percent of APL)	9,798	(1)
Total IFQ Annual Allocation (5.5 percent of APL) ²	570	428
LAGC IFQ Annual Allocation (5 percent of APL) ²	518	389
Limited Access with LAGC IFQ Annual Allocation (0.5 percent of APL) ²	52	39

¹ The catch limits for the 2024 fishing year are subject to change through a future specifications action or framework adjustment. This includes the setting of an APL for 2024 that will be based on the 2023 annual scallop surveys. The 2024 default allocations for the limited access component are defined for DAS in paragraph (b)(3) of this section and for access areas in § 648.59(b)(3)(i)(B).

² As specified in paragraph (a)(6)(iii)(B) of this section, the 2024 IFQ annual allocations are set at 75 percent of the 2023 IFQ Annual Allocations.

(b) * * *

(3) *DAS allocations.* The DAS allocations for limited access scallop vessels for fishing years 2023 and 2024 are as follows:

Table 3 to Paragraph (b)(3) - Scallop Open Area DAS Allocations

Permit category	2023	2024 ¹
Full-Time	24.00	18.00
Part-Time	9.60	7.20
Occasional	2.00	1.5

¹ The DAS allocations for the 2024 fishing year are subject to change through a future specifications action or framework adjustment. The 2024 DAS allocations are set at 75 percent of the 2023 allocation as a precautionary measure.

* * * * *

7. In § 648.59, revise paragraphs (a)(2) and (3), (b)(3)(i), (b)(6)(ii), (c), (e)(1) and (2), (g)(1), (g)(3)(v), and (g)(4)(ii) to read as follows:

§ 648.59 Sea Scallop Rotational Area Management Program and Access Area

Program requirements.

(a) * * *

(2) *Transiting a Scallop Rotational Closed Area.* No vessel possessing scallops may enter or be in the area(s) specified in this section when those areas are closed, as specified through the specifications or framework adjustment processes defined in § 648.55, unless the vessel is transiting the area and the vessel's fishing gear is stowed and not available for immediate use as defined in § 648.2, or there is a compelling safety reason to be in such areas without such gear being stowed. A vessel may only transit the New York Bight Scallop Rotational Area, as defined in § 648.60(j), if there is a compelling safety reason for transiting the area and the vessel's fishing gear is stowed and not available for immediate use as defined in § 648.2.

(3) *Transiting a Scallop Rotational Access Area.* Any sea scallop vessel that has not declared a trip into the Scallop Access Area Program may enter a Scallop Access Area, and possess scallops not caught in the Scallop Access Areas, for transiting purposes only, provided the vessel's fishing gear is stowed and not available for immediate use as defined in § 648.2. Any scallop vessel that has declared a trip into the Scallop Area Access Program may not enter or be in another Scallop Access Area on the same trip except such vessel may transit another Scallop Access Area provided its gear is stowed

and not available for immediate use as defined in § 648.2, or there is a compelling safety reason to be in such areas without such gear being stowed. A vessel may only transit the Area II Scallop Rotational Area, as defined in § 648.60(b), if there is a compelling safety reason for transiting the area and the vessel's fishing gear is stowed and not available for immediate use as defined in § 648.2.

(b) * * *

(3) * * *

(i) *Limited access vessel allocations and possession limits.* (A) Except as provided in paragraph (c) of this section, the specifications or framework adjustment processes defined in § 648.55 determine the total amount of scallops, in weight, that a limited access scallop vessel may harvest from Scallop Access Areas during applicable seasons specified in § 648.60. A vessel may not possess or land in excess of its scallop allocation assigned to specific Scallop Access Areas, unless authorized by the Regional Administrator, as specified in paragraph (d) of this section, unless the vessel owner has exchanged an area-specific scallop allocation with another vessel owner for additional scallop allocation in that area, as specified in paragraph (b)(3)(ii) of this section. A vessel may harvest its scallop allocation on any number of trips in a given fishing year, provided that no single trip exceeds the possession limits specified in the specifications or framework adjustment processes defined in § 648.55, unless authorized by the Regional Administrator, as specified in paragraphs (c) and (d) of this section. No vessel declared into the Scallop Access Areas may possess more than 3,332 lb (1,511 kg) of in-shell scallops outside of the Scallop Rotational Area boundaries defined in § 648.60.

(B) The following access area allocations and possession limits for limited access vessels shall be effective for the 2023 and 2024 fishing years:

(1) *Full-time vessels.* (i) For a full-time limited access vessel, the possession limit and allocations are:

Table 1 to Paragraph (b)(3)(i)(B)(1)(i)

Rotational access area	Scallop possession limit	2023 Scallop allocation	2024 Scallop allocation (default)
Area II	12,000 lb (5,443 kg) per trip	24,000 lb (10,886 kg)	0 lb (0 kg)
Total		24,000 lb (10,886 kg)	0 lb (0 kg)

(ii) [Reserved]

(2) *Part-time vessels.* (i) For a part-time limited access vessel, the possession limit and allocations are as follows:

Table 2 to Paragraph (b)(3)(i)(B)(2)(i)

Rotational access area	Scallop possession limit	2023 Scallop allocation	2024 Scallop allocation (default)
Area II	9,600 lb (4,082 kg) per trip	9,600 lb (4,354 kg)	0 lb (0 kg)
Total		9,600 lb (4,354 kg)	0 lb (0 kg)

(ii) [Reserved]

(3) *Occasional limited access vessels.* (i) For the 2023 fishing year only, an occasional limited access vessel is allocated 2,000 lb (907 kg) of scallops with a trip possession limit at 2,000 lb of scallops per trip (907 kg per trip). Occasional limited access vessels may harvest the 2,000 lb (907 kg) allocation from Area II Access Area.

(ii) For the 2024 fishing year, occasional limited access vessels are not allocated scallops in any rotational access area.

* * * * *

(6) * * *

(ii) Vessels fishing in the Area II Scallop Rotational Area defined in § 648.60(b) are prohibited from fishing with trawl gear as specified in § 648.51(f)(1).

* * * * *

(c) *Scallop Access Area scallop allocation carryover.* With the exception of vessels that held a Confirmation of Permit History as described in § 648.4(a)(2)(i)(J) for the entire fishing year preceding the carry-over year, a limited access scallop vessel may fish any unharvested Scallop Access Area allocation from a given fishing year within the first 60 days of the subsequent fishing year if the Scallop Access Area is open, unless otherwise specified in this section. However, the vessel may not exceed the Scallop Rotational Area trip possession limit. For example, if a full-time vessel has 7,000 lb (3,175 kg) remaining in the Closed Area II Access Area at the end of fishing year 2022, that vessel may harvest those 7,000 lb (3,175 kg) during the first 60 days that the Closed Area II Access Area is open in fishing year 2023 (April 1, 2023 through May 30, 2023).

* * * * *

(e) * * *

(1) 2023: Nantucket Lightship-North Scallop Rotational Area only for LAGC IFQ vessels during the first 90 days of fishing year 2023.

(2) 2024: No access areas.

* * * * *

(g) * * *

(1) An LAGC scallop vessel may only fish in the scallop rotational areas specified in § 648.60 or in paragraph (g)(3)(iv) of this section, subject to any additional restrictions specified in § 648.60, subject to the possession limit and access area schedule specified in the specifications or framework adjustment processes defined in § 648.55, provided the vessel complies with the requirements specified in paragraphs (b)(1), (2), and (6) through (9) and (d) through (g) of this section. A vessel issued both a NE multispecies permit and an LAGC scallop permit may fish in an approved SAP under § 648.85 and under multispecies DAS in the Area II and Nantucket Lightship North Scallop Rotational Area specified in § 648.60, when open, provided the vessel complies with the requirements

specified in § 648.59 and this paragraph (g), but may not fish for, possess, or land scallops on such trips.

* * * * *

(3) * * *

(v) *LAGC IFQ access area allocations*. The following LAGC IFQ access area trip allocations will be effective for the 2023 and 2024 fishing years:

Table 3 to Paragraph (g)(3)(v)

Scallop access area	2023	2024 ¹
Nantucket Lightship-North/Area II	571	0
Total	571	0

¹ The LAGC IFQ access area trip allocations for the 2024 fishing year are subject to change through a future specifications action or framework adjustment.

(4) * * *

(ii) *Other species*. Unless issued an LAGC IFQ scallop permit and fishing under an approved NE multispecies SAP under NE multispecies DAS, an LAGC IFQ vessel fishing in the Area II Rotational Area specified in § 648.60, and the Nantucket Lightship North Scallop Access Area specified in paragraph (g)(3)(iv) of this section is prohibited from possessing any species of fish other than scallops and monkfish, as specified in § 648.94(c)(8)(i). Such a vessel may fish in an approved SAP under § 648.85 and under multispecies DAS in the scallop access area, provided that it has not declared into the Scallop Access Area Program. Such a vessel is prohibited from fishing for, possessing, or landing scallops.

8. In § 648.60,

- a. Revise paragraphs (b) and (c);
- b. Remove and reserve paragraphs (d) and (e);
- c. Revise paragraph (g);
- d. Remove and reserve paragraph (h);
- e. Revise paragraphs (i) and (j); and

f. Add paragraph (k).

The revisions and addition read as follows:

§ 648.60 Sea Scallop Rotational Areas.

* * * * *

(b) *Area II Scallop Rotational Area*—(1) *Area II Scallop Rotational Area boundary.* The Area II Scallop Rotational Area is defined by straight lines connecting the following points in the order stated (copies of a chart depicting this area are available from the Regional Administrator upon request):

Table 1 to Paragraph (b)(1)

Point	N latitude	W longitude	Note
AII1	41°30'	67°20'	
AII2	41°30'	(¹)	(²)
AII3	40°40'	(³)	(²)
AII4	40°40'	67°20'	
AII1	41°30'	67°20'	

¹ The intersection of 41°30' N lat. and the U.S.-Canada Maritime Boundary, approximately 41°30' N lat., 66°34.73' W long.

² From Point AII2 connected to Point AII3 along the U.S.-Canada Maritime Boundary.

³ The intersection of 40°40' N lat. and the U.S.-Canada Maritime Boundary, approximately 40°40' N lat. and 65°52.61' W long.

(2) *Season.* (i) A vessel issued a scallop permit may not fish for, possess, or land scallops in or from the area known as the Area II Scallop Rotational Area, defined in paragraph (b)(1) of this section, during the period of August 15 through November 15 of each year the Area II Access Area is open to scallop vessels, unless transiting pursuant to § 648.59(a).

(ii) [Reserved]

(c) *Area I Scallop Rotational Area.* The Area I Scallop Rotational Area is defined by straight lines connecting the following points in the order stated (copies of a chart depicting this area are available from the Regional Administrator upon request):

Table 2 to Paragraph (c)

Point	N latitude	W longitude
AIA1	41°30'	68°30'
AIA2	40°58'	68°30'
AIA3	40°54.95'	68°53.37'
AIA4	41°30'	69°23'
AIA1	41°30'	68°30'

* * * * *

(g) *Nantucket Lightship-North Scallop Rotational Area—(1) Boundaries.* The Nantucket Lightship North Scallop Rotational Area is defined by straight lines connecting the following points in the order stated (copies of a chart depicting this area are available from the Regional Administrator upon request):

Table 3 to Paragraph (g)(1)

Point	N latitude	W longitude
NLSN1	40°50'	69°30'
NLSN2	40°50'	69°00'
NLSN3	40°28'	69°00'
NLSN4	40°28'	69°30'
NLSN1	40°50'	69°30'

(2) *Season.* (i) For the 2023 fishing year, a limited access vessel may not fish for, possess, or land scallops in or from the area known as the Nantucket Lightship North Scallop Rotational Area, defined in paragraph (g)(1) of this section, during the period of April 1 through June 29, unless transiting pursuant to § 648.59(a). On June 30, the Nantucket Lightship North Scallop Rotational Area shall become part of the open area for limited access vessels.

(ii) For the 2023 fishing year, upon a determination from the Regional Administrator that the total number of LAGC IFQ access area trips have been or are projected to be taken, the Nantucket Lightship North Scallop Rotational Area shall become part of the open area for LAGC IFQ vessels.

* * * * *

(i) *Nantucket Lightship-West Scallop Rotational Area.* The Nantucket Lightship-West Scallop Rotational Area is defined by straight lines connecting the following points

in the order stated (copies of a chart depicting this area are available from the Regional Administrator upon request):

Table 4 to Paragraph (i)

Point	N latitude	W longitude
NLSW1	40°43.44'	70°20'
NLSW2	40°43.44'	70°00'
NLSW3	40°43.44'	69°30'
NLSW4	40°20'	69°30'
NLSW5	40°20'	70°00'
NLSW6	40°26.63'	70°20'
NLSW1	40°43.44'	70°20'

(j) *New York Bight Scallop Rotational Area*. The New York Bight Scallop Rotational Area is defined by straight lines connecting the following points in the order stated (copies of a chart depicting this area are available from the Regional Administrator upon request):

Table 5 to Paragraph (j)

Point	N latitude	W longitude
NYB1	40°00'	73°20'
NYB2	40°00'	72°30'
NYB3	39°20'	72°30'
NYB4	39°20'	73°20'
NYB1	40°00'	73°20'

(k) *Elephant Trunk Scallop Rotational Area*. The Elephant Trunk Scallop Rotational Area is defined by straight lines connecting the following points in the order stated (copies of a chart depicting this area are available from the Regional Administrator upon request):

Table 6 to Paragraph (k)

Point	N latitude	W longitude
ET1	38°50'	74°20'
ET2	38°50'	73°30'
ET3	38°10'	73°30'

Point	N latitude	W longitude
ET4	38°10'	74°20'
ET1	38°50'	74°20'

9. In § 648.62, revise paragraph (b)(1) to read as follows:

§ 648.62 Northern Gulf of Maine (NGOM) Management Program.

(b) * * *

(1) The following landings limits will be effective for the NGOM for the 2023 and 2024 fishing years.

Table 1 to Paragraph (b)(1)

Landings limits	2023	2024 ¹
NGOM TAL	434,311 lb (197,000 kg)	318,573 (114,502 kg) ⁽³⁾ .
1 percent NGOM ABC for Observers	10,538 lb (4,780 kg)	7,932 (3,598 kg) ⁽³⁾ .
RSA Contribution	25,000 lb (11,340 kg)	25,000 lb (11,340 kg).
NGOM Set-Aside ²	380,855 lb (172,753 kg)	285,641 lb (129,565 kg).
NGOM APL	- ⁽⁴⁾	- ⁽⁴⁾

¹ The landings limits for the 2024 fishing year are subject to change through a future specifications action or framework adjustment.

² For fishing year 2023 the NGOM Set-Aside has been reduced by 17,918 lb (8,127 kg) to account for a limited access general category NGOM total allowable catch overage in 2021.

³ The catch limits for the 2024 fishing year are subject to change through a future specifications action or framework adjustment. This includes the setting of an APL for 2024 that will be based on the 2023 annual scallop surveys.

⁴ NGOM APL is set when the NGOM Set-Aside is above 800,000 lb (36,2874 kg).

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